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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1207th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 18 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh periodic report of Mexico (CERD/C/296/Add.1; HRI/CORE/1/Add.12/Rev.1) (continued)

1. At the invitation of the Chairman, the members of the delegation of Mexico resumed their places at the Committee table.

2. Mr. GONZALEZ FELIX (Mexico) replying to a question by Mr. de Gouttes, said that, in conformity with the Committee's 1995 recommendation to the Mexican Government, the eleventh periodic report of Mexico (CERD/C/296/Add.1) was an updating report that dealt primarily with the situation of the indigenous populations, especially in Chiapas, and with the problems of migrants. The Mexican Government would take the Rapporteur's requests for information into account in preparing the next periodic report. It would also give Committee members a diskette produced by the National Indigenous Institute in collaboration with the United Nations Development Programme (UNDP), which contained updated socio-demographic statistics and information on the indigenous populations of Mexico.

3. He agreed with members of the Committee that when practices hindered implementation of articles 2 to 5 of the Convention, there was indeed ethnic, in other words, racial, discrimination. In various official documents, the Government had recognized the existence of that discrimination and was attempting to combat the underlying historical and socio-economic factors. As to the place occupied by the Convention in Mexico's internal law, in conformity with article 133 of the Constitution, the Convention, which had been approved by the Senate and published in the official gazette on 13 June 1975, was an integral part of Mexican law and was recognized as such. It could be and was invoked before the courts by the judiciary, defendants and lawyers.

4. With regard to the implementation of article 4 of the Convention, article 364 of the Penal Code imposed a prison sentence of one month to three years for any violation of the individual guarantees and rights referred to in article 1 of the Constitution (except in cases of restriction or suspension provided for by law), particularly the principle of the equality of all before the law, which prohibited any differentiation based on race, religion, opinions or beliefs. Within the framework of the reform of article 4 of the Constitution, on indigenous populations, a commission was currently studying the possibility, in conformity with the Committee's 1995 recommendation, of introducing into criminal law a provision prohibiting and expressly penalizing discriminatory acts.

5. Mr. CANSECO GOMEZ (Mexico), referring to the situation in Chiapas, said that he proposed first to indicate the historical background of the conflict, in order better to illustrate the complexity of the political crisis that had developed in 1994. Racial divisions inherited from the colonial era had always been more marked in Chiapas than in the rest of the country. Efforts undertaken since independence to minimize racial differences had always

encountered greater resistance there than elsewhere in Mexico. Following the Mexican revolution, in which the demands for land made by the indigenous populations had played an important part, President Cárdenas had implemented in the 1930s an ambitious land distribution programme which had given arable land to the indigenous peoples of Chiapas. That agrarian reform, however, had not achieved the desired result, primarily because of the increase in population and the methods of farming the communal lands, which were linked to self-consumption patterns. The more recent arrival of migrants from other Mexican States had aggravated the problem of the scarcity of land and contributed to instability, as the new arrivals had engaged in discriminatory acts towards the indigenous communities. The geographical proximity of armed revolutionary groups present in other Central American States had also had a destabilizing effect. In view of that situation, the Church, particularly since the constitutional reforms of 1992, had helped to promote the defence of the indigenous communities with ideals that were sometimes contrary to the constitutional principles on which the Government's action was based.

6. He drew attention to the convergence in Chiapas of two political currents, that were incompatible in the long term: the thirst for land, associated with the desire to raise the economic and social level of the indigenous populations, and revolutionary leftist ideals. The Government was therefore confronted by the demands of the indigenous populations, which were inevitably opposed to the landholders, and the aspirations for change represented by the Zapatista National Liberation Army (ZNLA), which went far beyond local demands. The political difficulties were aggravated by the insufficiency of the land itself to meet the needs of the indigenous populations and of the small landholders; by the need to find work for the migrants; and by the presence of Guatemalan refugee centres. He agreed with members of the Committee on the legitimacy of the rights sought by the indigenous populations. The conflict in Chiapas had enabled Mexico to rediscover its origins and history - to rediscover "deepest Mexico", which was far more than the Christian and colonial eras of its beginnings and the revolutionary and modern periods that had followed. Recognition of the specific character of the indigenous communities was explained less by racist or segregationist policies than by the successful unification of the Mexican nation, which had enabled those populations to become aware of their history and aspirations. The task faced by the Government, in resolving the indigenous question in the context of the conflict in Chiapas, was nonetheless considerable.

7. As to the status of negotiations between the Mexican Government and the ZNLA aimed at finding an agreed solution to the Chiapas conflict, he reviewed the process undertaken by the authorities to put an end to violations of the fundamental rights of the indigenous populations and restore peace to the region.

8. To that end, the Government had adopted a policy of reforming the legal and regulatory framework, negotiating solutions to specific problems, consolidating the dialogue and negotiation process, taking, at the judicial and political levels, a flexible attitude towards ZNLA members involved in legal proceedings, investigating the conduct of the Mexican Army in Chiapas, supporting the political transformation of the Zapatista Army and implementing the agreements concluded.

9. In order to execute that global policy, the Government had implemented the strategy outlined in chapter III of the eleventh periodic report of Mexico, by organizing a series of regional gatherings, following which it had concluded the San Andrés agreements with the ZNLA, beginning in February 1996 (paras. 38-41), which recognized the indigenous communities as legal entities and laid the foundations for a new compact between the State and the indigenous communities.

10. The Round Table on Democracy and Justice had enabled joint consideration with the ZNLA of the State's reform programme as well as discussion of the technical aspects of incorporation of the political agreements into the Constitution. The negotiations were currently at a stalemate because of the divergences arising from the text proposed by the Concord and Peace Commission (COCOPA). However, COCOPA and the National Mediation Commission (CONAI) were seeking proposals to relaunch the process, and the President of the Republic was personally insisting on the importance of the dialogue.

11. Within the framework of measures aimed at consolidating the negotiations, the Government had begun to implement a programme for the welfare and sustainable development of Chiapas. In 1996, more than 12 billion pesos had been invested in that State, making it the largest beneficiary of the federal budget. Several programmes had been adopted within the framework of the dialogue and cooperation between the Government and the socio-political and rural organizations of Chiapas, aimed particularly at creating regional centres for social action, feeding 48 per cent of the school population, providing supplies for conflict zones, building medical centres and paying pre-school teachers in 355 localities and primary-school teachers in 1,825 other localities.

12. Regarding agrarian issues, the Government was negotiating with 80 per cent of the organizations affiliated with the 280 peasant organizations of the Democratic State Assembly of the People of Chiapas. It had provided financial assistance to 58,000 peasants, enabling them to buy land, and had distributed 117,000 hectares of land. In total, 40 million pesos had been spent by the Ministry of State for Agrarian Reform.

13. With regard to strengthening the rule of law and public security, the Government was implementing a programme to restore legality in order to combat drug traffic, arms traffic and delinquency, as well as a programme to reform the judicial system in the State of Chiapas. It had also instituted a programme for the professionalization and equipment of the public security forces. It was placing emphasis on strengthening the social fabric in the municipalities which had been torn apart by community or religious conflicts and was committed to combating acts of violence perpetrated by the chinchulines, whose existence reflected rivalries between local interest parties or groups.

14. As to the conduct of the armed forces in Chiapas, since the start of President Zedillo's term of office the National Human Rights Commission (CNDH) had received 86 reports of violations allegedly committed by the Mexican army. However, the Commission did not have sufficient proof to make recommendations on the subject. A visit by the Inter-American Commission on Human Rights had also been unable to establish the responsibility of the armed forces. On the

other hand the army had played a vital role in restoring the rule of law and public security, in curbing the conflict and in providing assistance to displaced persons, thereby fostering a return to peaceful conditions. It had also contributed to the repatriation of some 20,000 displaced persons and to the reconstruction of public works and road infrastructure.

15. In order to encourage the political transformation of the ZNLA, the Government had taken steps to facilitate its peaceful integration into society. It had authorized it to benefit freely and safely from the assistance of numerous individuals and organizations sympathetic to it and had involved it in the work of various mechanisms of dialogue on State reform as well as in the consideration of questions concerning the indigenous populations.

16. The Government had implemented a number of agreements that had been concluded with the ZNLA on preparation of a draft constitutional reform on human rights, reform of the Organization Act of the State of Chiapas, establishment of offices of the Ministry of the Interior in the indigenous areas of Chiapas, enactment of a law on the restructuring of municipalities and districts of Chiapas and creation within the CNDH of an inspection department on indigenous affairs.

17. In reply to a question from Mr. de Gouttes, he said that since 1994 the Mexican Government had been engaged in a reform of the structure and functioning of the judiciary aimed at ensuring the independence of judges as well as a balance in the judicial powers, by setting up several independent judicial bodies which were responsible for such matters as resolving conflicts between the different institutions of the federal State.

18. The CHAIRMAN welcomed the fact that the Government had asked a public body to incorporate suggestions made by the Committee into the Federal Penal Code and thanked the delegation of Mexico warmly for its updated information on the evolving situation in Chiapas.

19. Mr. SHAHI said he hoped the Government would seriously consider enacting a law aimed at restoring the land ownership rights of the 56 indigenous communities, which would be vital for improving their material circumstances. As to the modalities for representation of indigenous persons in the State's political institutions, he firmly believed that special electoral reserves were needed to ensure their representation in Parliament. It was extremely important to take firm measures to increase their representation in the State's decision-making bodies, while nevertheless avoiding any paternalism.

20. Mr. YUTZIS said that the implementation of the reforms that had been decided upon was crucial and should be covered in the next periodic report of Mexico. Land redistribution should be handled by the federal State rather than left to the individual States and local collectivities, so as to secure a fair and equitable distribution.

21. Mr. de GOUTTES (Country Rapporteur) thanked the delegation of Mexico for its detailed replies to the questions asked by the members of the Committee and said that his assessment of the situation had not changed since the country's previous periodic report. He highlighted several positive aspects,

such as the procedure envisaged to ensure implementation of article 4 of the Convention. However, there was a gap between the promising words, policies and programmes of the Government and the actual situation, which was by no means so bright. Differences of opinion remained between Mexico and the Committee with regard to racial discrimination, implementation of article 4 of the Convention, reform of article 27 of the Constitution and the agrarian situation. In its next report the delegation should endeavour to analyse precisely all the socio-economic indicators reflecting the marginalization and non-integration of the indigenous populations. Given the rapid changes in the situation in Mexico, the next report should be submitted to the Committee earlier than originally planned.

22. Mr. CANSECO GOMEZ (Mexico) said that, with regard to the agrarian situation and protection of the lands of indigenous communities, the ability to convert lands belonging to peasant or indigenous communities into communal or community lands did not depend on the local collectivities but on the federal authorities.

23. The CHAIRMAN welcomed the constructive dialogue that had begun between Mexico and the Committee and thanked the delegation warmly for its contribution. He noted that the Committee had concluded its consideration of the eleventh periodic report of Mexico.

24. The delegation of Mexico withdrew.

Twelfth to fourteenth periodic reports of Bulgaria (CERD/C/299/Add.7; HRI/CORE/1/Add.81) (continued)

25. At the invitation of the Chairman, the members of the delegation of Bulgaria resumed their places at the Committee table.

26. Mr. SOTIROV (Bulgaria) thanked Mr. Wolfrum for his in-depth analysis of the report of Bulgaria and also thanked the other members of the Committee for the interesting questions they had raised. The delegation would reply orally to the more important questions and in writing to the other questions, in Bulgaria's next report. First of all, the delay in distribution of the Ministry of Foreign Affairs brochure on the situation of the Romas in Bulgaria was due to the fact that the document had been issued only in early March 1997. As to the core document (HRI/CORE/1/Add.81), it had been submitted in English in mid-1996, but translation into all the official languages of the United Nations had unfortunately delayed its distribution. With regard to the various laws cited in paragraph 9 of the report, the delegation would do its best to provide a detailed explanation of their contents and application in the next report. As to whether the declaration made under article 14 of the Convention had been publicized, the Parliament had enacted the Law on Withdrawal of Reservations and Adoption of Declarations as provided in International Treaties (para. 12 of the report), which had been published in the State Gazette in 1993. The text of the Convention had also been published in the State Gazette, in 1992, and, as in the case of the other human rights instruments, some 10,000 copies had been distributed.

27. His delegation was prepared to provide more information concerning the Bulgarian Turks in the next report. The Law of 5 March 1990 on Names of

Bulgarian Citizens (para. 93) enabled Bulgarians of Turkish origin who had had to change their name to resume use of their Muslim name, and all restrictions on the use of minority languages in public places had been lifted. Textbooks in Turkish were distributed free of charge. There were more than 920 mosques in Bulgaria. The Koran was published in Turkish and Bulgarian, and religious literature in those two languages was disseminated freely. Since 1991, the mosques had been teaching the Koran. There were currently four Muslim secondary schools and an ecclesiastical Islamic college.

28. With regard to the census, the differences between the data provided in the periodic report and those in the core document concerned only the number of ethnic groups listed. Insofar as the census had been based on the principle of the freely expressed self-identification of individuals, the list of ethnic groups surveyed was in fact longer than the one in the report: in addition to the ethnic groups mentioned, 879 persons had identified themselves as German, 1,578 as British, 1,864 as Ukrainian, 3,019 as Macedonian, 71 as Croatian, 56 as French, and so forth. The cancellation of the census results for the village of Satovcha and the city of Yakoruda had been decided upon by the Parliament after it had been found that the mayors of those municipalities had pressured people to identify themselves with a particular ethnic group. The two mayors had been tried, found guilty and sentenced.

29. With regard to the Roma, and in particular the education of their children, he hoped that the Ministry of Foreign Affairs brochure would dispel some of the Committee's concerns. The information provided in paragraphs 104 to 106 of the report was intended simply to give an account of the situation in the country; in October 1996, the Social Development Fund of the Council of Europe had allocated $1.4 million to the State authorities to build housing for 80 Roma families.

30. Paragraph 33 of the core dealt not with existing provisions to ensure the protection of human rights, but with the possibility of creating the post of ombudsman or an independent human rights commission, an issue which was currently being discussed in Parliament. With the assistance of the Council of Europe, a workshop had been held in Sofia in December 1996 to study non-judicial means for protecting human rights. As to the Standing Commission on Human Rights of the National Assembly, which was active within the strict framework of the competencies of the legislative power, it had had 600 cases before it in 1996.

31. Replying to the concern expressed by some members of the Committee regarding the prohibition imposed by article 11 (4) of the Constitution on the creation of political parties on an ethnic basis, he said that in the past such parties had had separatist tendencies; the ethnic tensions of 1991 had had an impact on the drafting of the Constitution. The application of the article did not pose any practical problems. The current situation in the Balkans also called for prudence in that regard. Asked for its opinion on the article, the Constitutional Court had declared that it should not be interpreted as limiting the right to political expression of persons belonging to different ethnic, religious or linguistic communities. The question was one of protecting constitutional order and State authority.

32. On the subject of Bulgarian Muslims, or Pomaks - a Bulgarian word meaning "infidels", used by Bulgarian Christians to describe fellow Christians who had converted to Islam in the sixteenth, seventeenth and eighteenth centuries - it was because of the pejorative connotation of the term that most Bulgarian Muslims did not wish to be identified as Pomaks; the Communist regime had imposed a policy of forced assimilation on them, but they had been able to revert to their Arabic names after the fall of Communism, an option which older persons in particular had chosen. According to experts, there were some 200,000 Pomaks in Bulgaria. In the 1992 census, 70,000 persons had identified themselves as Bulgarians of the Islamic faith, and 35,000 as orthodox Bulgarians: both groups had been listed as Bulgarians. Approximately 60,000 other persons had identified themselves as Bulgarian Muslims, Bulgarian Mohammedans, Pomaks and the like. About 50,000 Pomaks who were not of Turkish origin had identified themselves as Turks, frequently in the hope that they could thereby reach Turkey to escape the current economic difficulties. Unlike the Bulgarian Turks, the Pomaks did not have their own political organizations. Only three small groups composed solely of Pomaks had been formed. Recently, hundreds of Pomaks had reconverted to Christianity under the influence of an Evangelical movement headed by Father Boyan Sariev.

33. Mr. RAIKOV (Bulgaria) said that he wished to provide information on the question of the Macedonian minority, which should be considered in a historical context. One of the four regions of Bulgaria was called Macedonia, and the term "Macedonian", commonly used to designate inhabitants of that region, had no ethnic meaning. The creation of a separate Macedonian nation was the idea of the Communist International; it dated back to 1934 and had been revived after the war, when Tito and the Bulgarian Communist leaders had decided to create a federation of the Balkans. A campaign had then been launched to impose a Macedonian ethnicity on the inhabitants of the Bulgarian region of Macedonia. A Macedonian language and alphabet had even been created, by decree of 2 August 1945. In 1963 the Communist Party had officially recognized the failure of that campaign and, for the 1965 census, had restored a fairly free process of ethnic self-identification.

34. Bulgaria had been the first country to recognize the Republic of Macedonia. However, Bulgarian public opinion, official institutions and political parties were openly hostile to the idea that a so-called ethnic Macedonian group could exist in Bulgaria. The 1992 census had enabled citizens to express their ethnic origin freely, but half the Roma community had declared itself Bulgarian or of Turkish origin and a third of the Muslim Bulgarians had said they were of Turkish origin. Some 3,019 Bulgarians had identified themselves as of Macedonian origin and 7,784 citizens had declared a Macedonian regional identity, while at the same time indicating that they considered themselves Bulgarians and that Bulgarian was their mother tongue.

35. The majority of the 3,019 Bulgarians who considered themselves of Macedonian origin lived in the region of the Pirin mountain range of Macedonia, in south-western Bulgaria. They suffered no discrimination in the exercise of their fundamental rights and could stand for election. In conformity with article 54 of the Constitution, which guaranteed the cultural rights of every citizen, several publications in western Bulgaria were advocating the idea of a separate Macedonian ethnic group in both the Republic of Macedonia and Bulgaria.

36. In conformity with articles 43 and 44 of the Constitution, which proclaimed freedom of assembly and of association, two cultural organizations registered in 1995 were upholding pro-Macedonian views. Some newspapers from the Republic of Macedonia were available in Bulgaria. Certain historical figures and events commemorated by the Bulgarian Macedonians were officially celebrated, as they were part of the collective memory of the entire nation. The native language of that group was taught at school.

37. Nevertheless, in western Bulgaria, the Omo Ilinden group was demanding a ban on all major parties in south-western Bulgaria, calling for an international military invasion of Bulgaria and withdrawal of the Bulgarian armed forces from the south-west, inciting ethnic hatred and making statements against the sovereignty and territorial integrity of Bulgaria. Recently, one of its leaders had been arrested in Petrich while attempting to stage a terrorist act.

38. On several occasions, the group had asked for official recognition. Its aims were the creation of a united independent Macedonian State, and it was clear from some of its documents that it was also threatening the sovereignty and territorial integrity of Greece and Albania.

39. The Bulgarian authorities had therefore on several occasions prohibited Omo Ilinden from organizing rallies but had authorized individuals who said they were members of that group to do so. Even so, the group continued to pursue its political activities and was frequently reported on in the press. The European Court of Human Rights had recently rejected as inadmissible a complaint lodged by the group.

40. Mr. SOTIROV (Bulgaria) said his Government would provide more information on the Russian, Greek, Armenian, Romanian and Jewish communities in its next report.

41. Additional information had been sent in September 1996 to Amnesty International on the implementation of the Penal Code. It was true that more remained to be done to improve the attitude of those in charge of enforcing the law vis-à-vis certain communities, and isolated cases of brutality were to be deplored. They were essentially due to the sometimes inadequate enforcement of certain laws and not to a deliberate policy of impunity. The size of the police force and its technical and financial resources, were insufficient; the forces of law and order were not sufficiently trained. Further legislation would be needed to govern police activities.

42. With reference to the implementation of article 5 of the Convention, Bulgaria had submitted its report to the International Labour Organization (ILO) on the application of Convention No. 111 concerning discrimination in employment and occupation. The functions of the presidential adviser on ethnic and religious issues were determined by the President himself.

43. There was no organized xenophobia in Bulgaria. However, sporadic manifestations occurred and the authorities were doing everything possible to prevent them and to punish those responsible.

44. In relation to the Bulgarian Turkish community, it was regrettable that there were no television broadcasts in the Turkish language in Bulgaria. The Turkish population watched Turkish television broadcasts, and perhaps, as a result, felt somewhat apart from Bulgarian social and cultural life.

45. He agreed that some of the points in paragraphs 23 and 24 overlapped. The absence of an independent human rights commission and an ombudsman for human rights questions somewhat hampered protection of human rights in Bulgaria. Nonetheless, the justice system generally enabled those rights to be realized.

46. Under article 97 of the Code of Criminal Procedure, anyone could complain of a violation of his rights and demand compensation. Furthermore, the Law on State Liability for Harm Inflicted on Citizens was enforced in full. In November 1989, proceedings had been initiated to rehabilitate and compensate Bulgarian citizens whose rights had been violated under the totalitarian regime. Under the 1991 Law on Amnesty and the Restitution of Sequestered Properties, a number of acts had been amnestied and were no longer subject to criminal proceedings, as they had been since 1945.

47. The 1991 Law on Civil and Political Vindication of Repressed (Persecuted) Persons, as applied to the period between 1944 and 1989, meant that those concerned could be compensated. Like Mr. Banton, he believed that representatives of ethnic minorities should play a role in combating crime.

48. The 1991 Constitution proclaimed the primacy of international law over domestic law. Article 5, paragraph 4, of the Constitution defined international law as international treaties that had been ratified, promulgated and made effective by the Republic of Bulgaria. Thus, the norms of customary international law and the decisions of international organizations or courts did not take precedence over domestic law.

49. Religious groups could be officially recognized. After 1989, many religious movements and sects had appeared in Bulgaria. However, some of them were involved in activities directed against the rights and freedoms of the population. Legislation called for religious organizations to be registered in conformity with the provisions of existing international instruments. Some organizations, however, had been registered under the Family and Persons Act, which regulated the activities of non-profit organizations. In order to prevent abuse of the law, the Parliament had amended it in February 1994. The new article, 133 (a), stipulated that the registration of religious associations was subject to approval by the Council of Ministers. Following that reform, more than 30 associations had been registered. The organizations whose requests for registration had been turned down were in fact banned in many other countries. The organizations concerned were entitled to challenge the legality of the registration procedure before the Supreme Court.

50. Religious beliefs posed no problem for integration in Bulgaria.

51. Mr. ABOUL-NASR, referring to the Pomaks, said that the forced conversion of Christians to Islam in the sixteenth, seventeenth and eighteenth centuries had been the consequence of Ottoman colonialism and not of Koranic law. The Koran obliged Muslims to pay a tax, the zakat. The Government should do

everything in its power to prevent the people from being prejudiced against the Pomaks. It was time to look to the future and resist making religion a source of trouble or supporting the extremists' arguments.

52. Mr. WOLFRUM said the answers provided by the Bulgarian delegation should be incorporated into the next periodic report. It was clear that the economic and social situation of the Roma was worse than that of other Bulgarian communities and that the Government should do something to improve the situation. Those in charge of enforcing the law should be made aware of the needs of minority groups.

53. He requested additional information on the restitution of property confiscated under the former regime from members of certain minorities. Had those persons recovered their property, or not? Regarding the Bulgarian Turks, the Government should encourage Bulgarian television broadcasts in Turkish. He welcomed the fruitful dialogue that the Bulgarian delegation had held with the Committee and the substantial information it had provided.

54. Mr. SOTIROV (Bulgaria) agreed with Mr. Aboul-Nasr that religion should not be the source of conflicts or passion. The next report would contain replies to the other questions raised by the Committee.

55. The CHAIRMAN said that the Committee had concluded its consideration of the twelfth to fourteenth periodic reports of Bulgaria.

56. The delegation of Bulgaria withdrew.

The meeting rose at 1.10 p.m.